INFORMATION BULLETIN 2005-7

December 19, 2005

One-year extension of the tax credit for on-the-job training periods and adjustments to certain other fiscal measures

The purpose of this information bulletin is to make public the one-year extension of the tax credit for on-the-job training periods, which was to end on December 31, 2005.

It also describes in detail the changes made to the eligibility conditions for the refundable tax credit for child assistance. As of January 1, 2007, the Régie des rentes du Québec will become fully independent in terms of the administration of this tax credit, and the new context provides an opportunity for making adjustments to better reflect the real situation of today's families.

This information bulletin also describes the changes made to the calculation of the revaluation to the reduction thresholds of the work premium and the child assistance payment, to reflect the implementation of the parental insurance plan that will become effective January 1, 2006.

Lastly, it describes a number of changes made to many other fiscal measures, mostly technical in nature, and gives the position of the ministère des Finances regarding various amendments made to the federal tax legislation, in particular those arising from the Economic and Fiscal Update of November 14, 2005 and those relating to the tax treatment of dividends paid after December 31, 2005.

For information regarding the matters dealt with in this information bulletin, contact the Secteur du droit fiscal et de la fiscalité at (418) 691-2236.

The French and English versions of this bulletin are available on the ministère des Finances website at : www.finances.gouv.qc.ca

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Finances Québec

One-year extension of the tax credit for on-the-job training periods and adjustments to certain other fiscal measures

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1. MEASURES CONCERNING INDIVIDUALS

1.1 Revaluation to the reduction thresholds of the work premium and the child assistance payment

In order to increase government assistance to families and the incentive to work, and ensure greater coherence between measures targeting income support, work incentives and the fulfilment of children's recognized essential needs, it was announced, as part of the March 30, 2004 Budget Speech, that family benefits, the non-refundable tax credit respecting dependent children,[1] the tax reduction in respect of families and the Parental Wage Assistance Program (PWA) would be replaced, as of January 1, 2005, by a refundable tax credit for child assistance and a refundable tax credit granting a work premium, hereafter referred to as the "work premium".

The refundable tax credit for child assistance is designed to provide all families with a child under age 18 with financial assistance. The tax credit, which is paid monthly or quarterly, consists of a child assistance payment and a supplement for handicapped children. The child assistance payment, which includes a universal base, depends on family income in order to provide additional assistance for low and middle-income families. The supplement for handicapped children is granted regardless of family income.

The table below gives the parameters used to determine the refundable tax credit for child assistance for 2005.

PARAMETERS OF THE REFUNDABLE TAX CREDIT FOR CHILD ASSISTANCE
(Taxation year 2005)

Parameters	
Maximum amounts	
Maximum basic amount for a 1st child	$2 000
Maximum basic amount for a 2nd and 3rd child	$1 000
Maximum basic amount for a 4th child and subsequent children	$1 500
Maximum amount for a single-parent family	$700
Minimum amounts	
Minimum basic amount for a 1st child	$561
Minimum basic amount for a 2nd child and subsequent children	$517
Minimum amount for a single-parent family	$280
Reduction thresholds	
Reduction threshold for a single-parent family	$31 600
Reduction threshold for a two-parent family	$42 800
Rate of reduction	4%
Monthly amount of the supplement for a handicapped child	$121

1 With the exception of the component of this tax credit that granted an amount respecting children engaged in vocational training or postsecondary studies.

The work premium, which is reduced depending on family income, is designed to enhance the interest for low and middle-income workers to enter or re-enter the labour market or remain in it.

The following table gives the main parameters used to determine the work premium for 2005.

MAIN PARAMETERS OF THE WORK PREMIUM
(Taxation year 2005)

	Single person	Childless couple	Single-parent family	Couple with children
Earned income excluded	$2 400	$3 600	$2 400	$3 600
Rate of tax credit	7%	7%	30%	25%
Maximum premium[1]	*$511*	*$784*	*$2 190*	*$2 800*
Reduction				
– reduction threshold	$9 700	$14 800	$9 700	$14 800
– rate of reduction	10%	10%	10%	10%
Cut-off threshold[2]	*$14 810*	*$22 640*	*$31 600*	*$42 800*

1. The maximum premium is equal to the product obtained by multiplying the rate of the tax credit by the amount that corresponds to the excess of the reduction threshold over earned income excluded.
2. Amount of income as of which a household is no longer eligible for the work premium.

The work premium was designed with an aim of ensuring an integration between the income security system and the tax system. Accordingly, the amount of earned income excluded for the purposes of the work premium corresponds to the amount set under the Employment-Assistance Program[2] for adults that do not have a severely limited capacity for employment. Similarly, the work premium reduction thresholds were set to be harmonized as much as possible with the amounts of income as of which households fit for work cease to be eligible (cut-off threshold) for the Employment-Assistance Program.

In order for the main parameters of the refundable tax credit for child assistance and the work premium to be set so as to protect taxpayers' purchasing power, it was announced, as part of the Budget Speech of March 30, 2004, that these parameters would be revaluated annually.

More specifically, the tax legislation stipulates that the maximum basic amounts, the minimum basic amounts and the supplement for handicapped children used to determine the refundable tax credit for child assistance must, like the main parameters of the personal income tax system, be automatically indexed.

2 This program is established under the *Act respecting income support, employment assistance and social solidarity*.

Regarding the reduction thresholds used to determine the child assistance payment and the work premium, the tax legislation sets revaluation formulas so that the reduction thresholds of the work premium harmonized with the cut-off thresholds of the Employment-Assistance Program for households fit for work and the reduction thresholds of the child assistance payment harmonize with income levels from which households with children are no longer eligible (cut-off threshold) for the work premium.

The formula stipulated for determining the reduction thresholds of the work premium does not allow for the fact that, following the implementation of the parental insurance plan on January 1, 2006, Québec workers will have to pay a contribution to this plan and the rate applicable to the calculation of their contribution to the employment insurance plan will, accordingly, be lower than the one applicable to the contribution payable by workers in the other provinces.

❑ Reduction thresholds of the work premium

The tax legislation will be amended to provide that, as of taxation year 2006, the reduction threshold of the work premium of a household, according to its composition, that applies for a given year will be revaluated annually according to rules set by regulation.

According to these rules, the reduction threshold applicable for a given year will correspond to the higher of the reduction threshold that was applicable to the household for the year preceding the given year and the amount determined according to the following steps:

Step 1: Determination of the net earned income of households

The first step will consist in determining the net earned income of the household for the given year. Depending on whether the household has only one adult[3] (single person or single-parent family) or consists of two adults[4] (couple with or without children), the household's net earned income will correspond to the total, determined on an annual basis, of the amounts allowed, for each month of the given year, under the Employment-Assistance Program and described in the following table.

Household with one adult	Household with two adults
➢ The basic benefit allowed a single adult fit for work.	➢ The basic benefit allowed a family consisting of two adults fit for work.
➢ The amount of the adjustment allowed to account for the advance payment of the Québec sales tax (QST) credit to a single adult who does not share a dwelling unit.	➢ The amount of the adjustment allowed to account for the advance payment of the QST credit to a family consisting of two adults.
➢ The amount excluded from the work income of a single adult without a severely limited capacity for employment.	➢ The amount excluded from the work income of a family consisting of two adults without a severely limited capacity for employment.

3 Including an emancipated minor within the meaning of the *Civil Code of Québec* or a minor person who is the father or mother of a child with which he or she resides.

4 Including an emancipated minor within the meaning of the *Civil Code of Québec* or a minor person who is either the spouse of another individual, or the parent of a child with whom he or she resides.

Step 2: Determination of the gross earned income of households

The second step will consist in reconstituting the gross earned income of households for the given year, assuming that, to arrive at the net earned income determined for the year in step 1, such gross income constitutes the annual salary of the household from which only the following amounts have been deducted at source:

— the amounts payable for the year as employee premiums under the *Act respecting the Québec Pension Plan*;

— the amounts payable for the year as employee premiums under the *Employment Insurance Act*, calculated on the basis of the rate applicable to Québec workers;

— the amounts payable for the year as employee premiums under the *Act respecting Parental Insurance*;

— the amount of federal income tax that would be payable for the year, had such tax been calculated taking into account only the basic tax credit, the spousal tax credit (in the case where the gross income is calculated for a household consisting of two adults) and the tax credit for employee premiums to the Québec Pension Plan, the parental insurance plan and employment insurance.

For greater clarity, in the case of a household consisting of two adults, the household's gross income must be determined as if only one of the two adults had earned the household's net earned income, given that the basic parameters of the Employment-Assistance Program stem, regarding such households, from this principle.

Step 3: Rounding of results

If the result obtained in step 2 is not an even whole number, it must be rounded off to the nearest even whole number or, if it is equidistant between two even whole numbers, to the nearest higher even whole number.

Following the application of these rules for taxation year 2006, the reduction threshold of the work premium of a household consisting of only one adult will rise from $9 700 to $9 720, while the reduction threshold applicable to a household consisting of two adults will rise from $14 800 to $14 884.

The following table shows the main parameters that will be used to determine the work premium for 2006.

MAIN PARAMETERS OF THE WORK PREMIUM
(Taxation year 2006)

	Single person	Childless couple	Single-parent family	Couple with children
Earned income excluded	$2 400	$3 600	$2 400	$3 600
Rate of tax credit	7%	7%	30%	25%
Maximum premium[1]	*$512.40*	*$789.88*	*$2 196*	*$2 821*
Reduction				
– reduction threshold	$9 720	$14 884	$9 720	$14 884
– rate of reduction	10%	10%	10%	10%
Cut-off threshold[2]	*$14 844*	*$22 782.80*	*$31 680*	*$43 094*

1. The maximum premium is equal to the product obtained by multiplying the rate of the tax credit by the amount that corresponds to the excess of the reduction threshold over earned income excluded.
2. Amount of income as of which a household is no longer eligible for the work premium.

For taxation years after taxation year 2006, the applicable thresholds will be published each year in the *Gazette officielle du Québec*.[5]

❑ Reduction thresholds of the child assistance payment

The tax legislation will be amended to provide that, as of taxation year 2006, the reduction threshold of the child assistance payment applicable to a single-parent family and that applicable to a two-parent family will correspond, respectively, to the cut-off threshold of the work premium (income from which the household is no longer eligible to receive the work premium) applicable, for the year, to a single-parent family and to a couple with children.

The result is that, for taxation year 2006, the reduction threshold applicable to a single-parent family will rise from $31 600 to $31 680, while the reduction threshold applicable to a two-parent family will rise from $42 800 to $43 094.

For taxation years after taxation year 2006, the applicable thresholds will be published each year in the *Gazette officielle du Québec*.[6]

The following table provides a comparison of the parameters of the refundable tax credit for child assistance that apply for taxation year 2005 with those that will apply for taxation year 2006.

5 A notice published in the *Gazette officielle du Québec* may have retroactive effect to January 1 of the year for which the thresholds are determined. For greater clarity, a published notice may also be revised with retroactive effect (such revision could occur when, following publication of the notice, one of the parameters used to determine the reduction thresholds is changed – as could be the case if the federal tax parameters were changed after the publication of a notice).

6 *Ibid.*

PARAMETERS OF THE REFUNDABLE TAX CREDIT FOR CHILD ASSISTANCE

Parameters	2005	2006
Maximum amounts		
Maximum basic amount for a 1st child	$2 000	$2 049
Maximum basic amount for a 2nd and 3rd child	$1 000	$1 024
Maximum basic amount for a 4th child and subsequent children	$1 500	$1 536
Maximum amount for a single-parent family	$700	$717
Minimum amounts		
Minimum basic amount for a 1st child	$561	$575
Minimum basic amount for a 2nd child and subsequent children	$517	$530
Minimum amount for a single-parent family	$280	$287
Reduction thresholds		
Reduction threshold for a single-parent family	$31 600	$31 680
Reduction threshold for a two-parent family	$42 800	$43 094
Rate of reduction	4%	4%
Monthly amount of the supplement for a handicapped child	$121	$161.50[1]

1. Further to the April 21, 2005 Budget Speech, an amount of $37.50 was added to the amount obtained after indexing the amount of $121 applicable for 2005.

1.2 Adjustments to the refundable tax credit for child assistance

The refundable tax credit for child assistance (RTCCA), consisting of a child assistance payment and a supplement for handicapped children, provides families with a child under age 18 with financial assistance.

For a large number of families in Québec, the financial assistance provided under the RTCCA consists exclusively of the child assistance payment that, unlike the supplement for handicapped children, is reduced on the basis of family income. However, since this reduction is only partial, all Québec families with a child under age 18 can, in general, receive the child assistance payment to obtain financial assistance regarding their minor children.

Where two families share custody of a child on a more or less equal monthly basis, each family can receive, regarding such child, 50% of the amount it would have obtained had it had exclusive custody of the child. The RTCCA is then paid alternately to the families concerned (six months to one and six months to the other).

In two-parent families, the female spouse usually receives the RTCCA for all the family's children since the actual tax legislation contains a presumption in her favour.

Responsibility for paying the RTCCA to families in Québec lies with the Régie des rentes du Québec (the "Régie"), which currently depends on the Canada Revenue Agency for data on taxpayer eligibility and family composition.

As of January 1, 2007, the Régie will become fully independent regarding the administration of the RTCCA. This new context provides an opportunity to make various adjustments to the RTCCA to better reflect the real situation of today's families.

❑ Eligible individuals

Currently, the tax legislation stipulates that an individual can receive the RTCCA for a given month if, at the beginning of such month, he is an eligible individual in respect of an eligible dependent child, referred to hereunder as a "minor child".

To be considered, at the beginning of a given month, an eligible individual in respect of a minor child, an individual must, at the beginning of such month, satisfy a series of conditions, including the following:

— he must reside with the child;

— he must be the father or mother of the child;[7]

— he must be mainly responsible for the care and education of the child.

To determine whether the latter condition is satisfied, various criteria must be taken into account requiring an appreciation of a set of facts, referred to hereunder as "factual criteria". However, where the minor child resides with his mother, she is generally presumed to be the person who is mainly responsible for the care and education of the child.

To facilitate administration of the RTCCA, while allowing for the wishes of spouses regarding the person in the couple who should receive the tax assistance for the family, certain amendments will be made, as of taxation year 2007, to the tax legislation.

Briefly, these amendments will result in adjustments to the eligibility conditions for the RTCCA to better adapt the tax assistance to various family situations. These adjustments will be accompanied by rules that, for the most part, will consist of irrefutable presumptions, to more easily determine – in particular by restricting use of factual criteria as much as possible – whether an individual is entitled to the RTCCA in respect of a minor child. Lastly, they will be completed by rules designed to identify, in the case of two-parent families, which spouse will receive payment of the RTCCA.

• Adjustments to RTCCA eligibility conditions

Currently, only one person, generally the child's mother, can, at the beginning of a given month, be considered mainly responsible for the care and education of a child.

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7 The father or the mother of a child means the person to whom the child is connected by filiation (generally, the father or mother whose name appears on the act of birth), the person who is the spouse of the child's father or mother (i.e. the new spouse of one of the child's parents), the person who is the father or mother of the child's spouse (either the father-in-law or the mother-in-law of a child with a spouse), or the person on whom the child is entirely dependent to provide for his or her support and who has the custody and control of the child, in law or in fact, including a person who has already satisfied these conditions (for example, the individual appointed tutor to the child).

To reflect the fact that persons living as a couple generally share this responsibility equally, the tax legislation will be amended to stipulate that, as of taxation year 2007, an individual will be able, for a given month, to receive the RTCCA for each of the minor children regarding whom he is an eligible individual[8] at the beginning of such month, provided he or his cohabiting spouse[9] assumes responsibility for the care and education of the child at the beginning of the given month.

Where, under this new eligibility rule, more than one eligible individual who are mutually cohabiting spouses is entitled to receive the RTCCA, only one of them will be able to receive payment of the tax credit, in accordance with the rules that will be implemented to identify which of the spouses will receive payment of the RTCCA for all the children of the family (these rules are described below under the heading "Rules concerning payment of the RTCCA in a two-parent family").

However, to reflect financial agreements that may exist within a couple, a spouse may, at any time, waive his right to obtain the RTCCA in favour of the other spouse, provided such other spouse is also an eligible individual.

Despite the fact that an eligible individual has not waived payment of the RTCCA in favour of his spouse, the Régie will be able, in exceptional circumstances, to pay the RTCCA to the latter – provided he is also an eligible individual – if it is convinced that such a decision is in the interests of the family.

- **Irrefutable presumptions for the purposes of the RTCCA eligibility conditions**

Currently, a set of factual criteria must be assessed to determine who is mainly responsible for the care and education of a minor child. However, assessment of the factual criteria is not necessary if the child resides with its mother, unless:

— the mother is a minor and one of her parents (the grandmother or grandfather of the child) applies for the RTCCA in respect of the child;

— the child has more than one mother with whom it resides (for example, the child resides with its biological mother and with the new spouse of its father) and each of these apply for the RTCCA in respect of the child;

— more than one person resident in different places applies for the RTCCA in respect of the child (in particular, this situation covers cases of shared custody between the parents).

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8 For greater clarity, the definition of the expression "eligible individual" will be changed to remove the condition that an individual must be mainly responsible for the care and education of his child.

9 For the purposes of the RTCCA, the expression "cohabiting spouse" of an individual at a given time means the person who, at such time, is the individual's spouse and the individual is not living separate and apart from the person at that time. In this regard, a person is considered to be living separate and apart from an individual at any time, only if he or she is living apart from the individual at that time because of the breakdown of their relationship and if the separation lasts for a period of at least 90 days that includes that time.

To restrict use of factual criteria as much as possible and to determine more easily whether an individual is or is not entitled to the RTCCA in respect of a child, irrefutable presumptions will take effect as of taxation year 2007.

— **Presumption applicable where custody of a child is not shared between its parents**

Individuals that, at the beginning of a given month, are connected by filiation with a minor child, other than a child custody of whom is shared at the beginning of the month, will be deemed to assume responsibility for the care and education of the child at the beginning of such month. However, this presumption will not apply to the biological mother of a minor child if, at the beginning of the given month, she has not reached age 18 and does not have a cohabiting spouse.

This presumption recognizes that responsibility for the care and education of a minor child rests, in the first instance, with its parents.

For the purposes of this presumption, a child whose custody is shared at the beginning of a given month means either a child each of whose parents assume at least 40% of custody time during the month,[10] or a child whose custody is shared between one of its parents and a person with whom it is not connected by filiation if, in the latter case, the person with whom it is connected by filiation (i.e. one of its parents) assumes less than 50% of custody time during the month.[11]

Where, because of this presumption, one or more individuals are deemed to assume, at the beginning of a given month, responsibility for the care and education of a minor child, no other individual may be considered to assume, at the beginning of such month, this responsibility in respect of the child. This rule will give full effect to the presumption. For example, if a child, whose mother is deceased, resides with its father at the beginning of a given month, no person other than the father may claim to assume responsibility for the care and education of such child at the beginning of such month, despite the fact that such person (for example, the grandmother) cares for the child for many hours each day.

— **Presumption applicable where custody of a child is shared between its parents**

In the case where individuals connected to a minor child by filiation share custody of the child for at least 40% of the time during a given month, each of them shall be deemed to assume responsibility for the care and education of the child at the beginning of such month.

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10 A special presumption will apply for children whose parents share their custody.

11 In such a case, it will be necessary to study the factual criteria to determine who may apply for the RTCCA in respect of the child, since neither of the parents of the child assumes, *a priori*, predominant responsibility for the care and education of the child.

The amount of RTCCA payable in respect of the child must then be determined according to the calculation rules applicable to shared custody (these rules are described under the heading "Rules for calculating the RTCCA in the case of shared custody").

In addition, where, because of this presumption, individuals are deemed to assume, at the beginning of a given month, responsibility for the care and education of a minor child, no other individual may be considered to assume, at the beginning of such month, this responsibility in respect of the child. This rule is designed to reinforce the presumption by rejecting any other person who is not one of the parents.

— **Presumption applicable if one of the parents does not assume at least 40% of custody time**

Where an individual does not have custody of a minor child with which it is connected by filiation for at least 40% of the time during a given month, such individual as well as his cohabiting spouse, if any, will be deemed not to reside with the child at the beginning of such month. As a result, for such month, neither the individual nor his cohabiting spouse may claim the RTCCA in respect of such child, since they are not eligible individuals regarding him.[12]

- **Application of factual criteria**

Use of factual criteria to determine whether an individual assumes, at the beginning of a given month, responsibility for the care and education of a minor child, will be limited to the following two cases:

— At the beginning of the given month, the biological mother of the child has not reached age 18, has no cohabiting spouse and custody of the child is not, at the beginning of the month, shared between its parents[13] or between its father[14] and a person with whom it is not connected by filiation if, in the latter case, the person with whom it is connected by filiation (i.e. the father) assumes at least 50% of the custody time during the month.[15]

12 Remember the fact that to qualify as an eligible individual in respect of a minor child at the beginning of a given month, an individual must reside with the child at the beginning of such month.

13 I.e. a child each of whose parents assumes at least 40% of custody time during the month. In such a case, each of the parents is deemed to assume responsibility for the care and education of the child and the amount of the RTCCA payable in respect of the child must be determined according to the calculation rules applicable to shared custody.

14 Provided he is connected by filiation with the child.

15 In such a case, only the father is deemed to assume responsibility for the care and education of the child.

If, after studying the factual criteria, more than one individual who are not married together[16] – or, if they are, who do not live together[17] – assume, at the beginning of the given month, responsibility for the care and education of the child, only the individual who is predominant in assuming such responsibility[18] shall be deemed to satisfy this condition at the beginning of the month, unless the father[19] of the child assumes at least 40% of custody time during the month, in which case he shall also be deemed to assumed responsibility for the care and education of the child at the beginning of such month. In such a case, the amount of the RTCCA payable in respect of the child shall be determined according to the calculation rules applicable to shared custody (these rules are described under the heading "Rules for calculating the RTCCA in the case of shared custody").

— No person connected by filiation with the child assumes at least 50% of its custody time during the given month. For example, such a situation could occur where a child is left in the exclusive custody of its grandparents or left in the custody of many persons and neither of its parents assumes at least 50% of custody time during the given month.

If, after studying the factual criteria, more than one individual who are not married together[20] – or, if they are, who do not live together[21] – assume, at the beginning of the given month, responsibility for the care and education of the child, only the individual who is predominant in assuming such responsibility[22] shall be deemed to satisfy this condition at the beginning of the month, unless another individual connected with the child by filiation assumes at least 40% of custody time of the child during the month, in which case such individual shall also be deemed to assume responsibility for the care and education of the child at the beginning of such month. In such a case, the amount of the RTCCA payable in respect of the child shall be determined according to the calculation rules applicable to shared custody (these rules are described under the heading "Rules for calculating the RTCCA in the case of shared custody").

- **Rules concerning payment of the RTCCA in a two-parent family**

Currently, to receive the RTCCA, an individual must apply for it to the Canada Revenue Agency.

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16 For the purposes of the tax legislation, individuals are considered married if they are united by the bonds of marriage or a civil union or if they are *de facto* spouses.

17 A married person is considered to be living apart from his spouse, at any time, only if he lives apart from such spouse, at that time, because of the breakdown of their relationship and if the separation lasts for a period of at least 90 days that includes that time.

18 Where this responsibility is shared equally among many persons, they must agree to determine which of them will be deemed to assume this responsibility at the beginning of the month. Failing such agreement, the Régie shall determine which of them assumes this responsibility at the beginning of the month.

19 *Supra*, note 14.

20 *Supra*, note 16.

21 *Supra*, note 17.

22 *Supra*, note 18.

Once the Régie becomes fully independent in terms of the administration of the RTCCA, applications to obtain the RTCCA or to change its amount will have to be submitted to the Régie. However, an individual will not be required to submit an application to the Régie, in respect of a minor child, where the registrar of civil status has provided the Régie with the information needed to determine its eligibility.[23]

According to existing rules, the female spouse usually receives the RTCCA for all the children of a two-parent family, since the mother is presumed to be mainly responsible for the care and education of the children with whom she lives.

As of January 1, 2007, new rules will apply to identify which of the cohabiting spouses in a two-parent family will receive the amount of RTCCA otherwise payable in respect of all the children of the family.

— **Initial application in a family, other than a blended family**

In the case of an initial application in a family, other than an application from a blended family,[24] the amount of RTCCA otherwise payable is paid according to the following rules:

— where the application is from the registrar of civil status,[25] the amount will be paid to the biological mother of the child, provided she is an eligible individual.[26] If she does not satisfy this condition, the amount will then be paid to her spouse;

— where the application is not from the registrar of civil status,[27] the amount will be paid to the individual submitting the application, provided he is an eligible individual. If he does not satisfy this condition, the amount will be paid to his spouse.

— **Initial application[28] from a blended family**

In the case of an initial application from a blended family,[29] the amount of RTCCA otherwise payable is paid according to the following rules:

— if both spouses are eligible individuals, the amount will be paid to the eligible individual connected by filiation with the largest number of children covered by the application;

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23 It is anticipated that the registrar of civil status will communicate to the Régie information on, among other things, births in Québec.

24 I.e. two single-parent families that combine to form a new family.

25 The registrar of civil status will have informed the Régie that a child has been born in the family.

26 Briefly, to qualify as an eligible individual, a person – who is the father or the mother of a minor child – must reside in Québec and have, or be the spouse of a person who has, Canadian status (status of Canadian citizen, permanent resident or protected person, for example).

27 This situation covers, among others, applications submitted by new residents of Québec and those submitted following the adoption of a first child or the award of custody of a child.

28 More specifically, this application will take the form of a notice regarding a change of situation.

29 *Supra*, note 24.

— if both spouses are eligible individuals and each of them is connected by filiation with an equal number of children covered by the application, the amount will be paid to the eligible individual with the youngest child, unless the youngest child is connected by filiation with both spouses, in which case the amount will be paid to the mother;

— if only one of the spouses is an eligible individual, the amount will be paid to him or her.

— **Second application and subsequent applications**

For the second application and all subsequent applications from a two-parent family that already receives the RTCCA, the individual who receives the RTCCA for the family will receive an increase in tax assistance to take account of the arrival of a child in the family.

— **Waiver of the right to receive the RTCCA**

A spouse may, at any time, waive his right to receive the RTCCA in favour of the other spouse, provided the latter is also an eligible individual.

❑ Rules for calculating the RTCCA in the case of shared custody

Currently, families that share custody of a child on a more or less equal basis during a month (for example, for cycles of one week each or four days with one and three with the other) can both receive part of the RTCCA payable in respect of the child if the child were not covered by shared custody.

In such a case, each family receives, alternately, for six months the RTCCA attributable to the child whose custody is shared. As a result, for a given year, each family receives 50% of the amount it would have obtained in respect of the child if it had had exclusive custody of the child.

To better adapt the tax assistance provided by the RTCCA to the real situation of families that share custody of a minor child, various adjustments will be made, as of taxation year 2007, to the rules for calculating the tax credit, in particular to enable simultaneous, rather than successive, payment of the tax assistance.

These adjustments, that essentially will adapt the existing rules for calculating the RTCCA to reflect the fact that one or more children in a family are covered by shared custody, will require a four-step calculation of the tax credit.

This four-step calculation will have to be followed in all cases where two individuals, when they are not mutually cohabiting spouses at the beginning of a given month, qualify, at the beginning of such month, as eligible individuals in respect of the same minor child and are each deemed to assume, at that time, responsibility for the care and education of such child (these cases are referred to hereunder as "shared custody case" and the minor child in question is referred to hereunder as "child covered by shared custody").

The amount of the RTCCA that may then be granted, for a given month, to each of these individuals must be determined according to the following four calculation steps:

— The first step involves calculating the amount of the RTCCA that would have been granted to the individual, for the given month, had the latter not been, at the beginning of such month, in a shared custody case, considering each of the minor children in respect of which he is, at such time, an eligible individual and in respect of which he or, if applicable, his cohabiting spouse at the beginning of the given month assumes, at such time, responsibility for the care and education.

— The second stage consists in calculating the amount of RTCCA that would have been granted to the individual, for the given month, had he not been, at the beginning of such month, an eligible individual in respect of any child covered by shared custody, including each of the other minor children in respect of which he is, at such time, an eligible individual and in respect of which he or, if applicable, his cohabiting spouse at the beginning of the given month assumes, at such time, responsibility for the care and education. The amount thus determined will essentially reflect the amount of RTCCA attributable, for the given month, to children in the exclusive custody of the individual, his cohabiting spouse or of both at the same time, considering these children as the first children of the family.[30]

— The third step consists in determining the amount of RTCCA attributable, for the given month, to the children covered by shared custody. This amount is equal to the amount corresponding to 50% of the excess of the amount arrived at in the first step of the calculation over that arrived at in the second step.

— Lastly, the fourth step consists in determining the amount of RTCCA that may, for the given month, be granted to the individual. This amount is equal to the total of the amounts arrived at in the second and third steps of the calculation.

The following example illustrates, on an annual basis, the four steps in the calculation of the RTCCA in the case of shared custody.

Example:[1] *Single-parent family with exclusive custody of two children, shared-custody of two children and family income of $60 000.*

1° Calculation for all children	**Maximum amount**: 1st child ($2 000) + 2nd child ($1 000) + 3rd child ($1 000) + 4th child ($1 500) + single-parent family supplement ($700) = $6 200
	Reduction: $6 200 - [4% ($60 000 - $31 600)] = **$5 064**
2° Calculation for children in exclusive custody	**Maximum amount**: 1st child ($2 000) + 2nd child ($1 000) + single-parent family supplement ($700) = $3 700
	Reduction: $3 700 - [4% ($60 000 - $31 600)] = **$2 564**
3° Calculation for children in shared custody	50% ($5 064 - $2 564) = **$1 250**
4° RTCCA	$2 564 + $1 250 = **$3 814**, i.e. $317.83 for a given month

1. The calculations reflect the parameters applicable for taxation year 2005.

30 Under the parameters of the RTCCA, a higher amount is granted for the first child of a family.

Moreover, any eligible individual in respect of a minor child will be required to advise the Régie of the fact that he has shared, since a given date, custody of such child. He will also be required to inform the Régie of the custody time he assumes, on a monthly basis, in respect of such child as well as of any other change that may be made to the allocation of custody time of the child.

❑ Change in conjugal situation

According to the existing rules, the child assistance payment, which is a component of the RTCCA, is, in part, reduced on the basis of the family income of an individual.

For the purposes of calculating a child assistance payment for each month from January to June of a given year, an individual's family income consists, on the one hand, of his income for the reference year relating to such month, i.e. the taxation year ended on December 31 of the second preceding year, and, on the other, the income, for such reference year, of the person who was his cohabiting spouse at the end of such year.

The family income used to calculate a child assistance payment for each month from July to December of a given year consists of the individual's income for the reference year relating to such month, i.e. the taxation year ended on December 31 of the preceding year, and the income, for such reference year, of the person who was his cohabiting spouse at the end of such year.

Since an individual's family income depends on his conjugal status reported at the end of a given reference year and up to 17 months may have elapsed between that time and the month for which a child assistance payment is calculated on the basis of such income, the tax legislation allows an individual, whose conjugal situation is no longer the same as then reported, to make an election with the Régie so that his family income is determined:

— without including, in cases where the change in conjugal situation stems from the loss by the cohabiting spouse at the end of the reference year (following a death or separation for example), of the latter's income;

— by including, in the case where the change in conjugal situation stems from a union, the income of the new spouse.

Where such an election is made, the child assistance payment to which the individual is entitled is adjusted retroactively to the first day of the month following the change in conjugal situation, subject to a maximum retroactive effect of 11 months.

As a general rule, this election is made by an individual only when it enables him to obtain more tax assistance by way of the child assistance payment, i.e., mostly, where the individual becomes head of a single-parent family following loss of his spouse.

Where single-parent families become two-parent families, this election is generally not made, so that these families can receive, during a period of from six to seventeen months (depending on the date of the union), a child assistance payment calculated on the basis of family income consisting of a single income, even though, in fact, such families have two incomes.

Accordingly, to make the tax assistance paid to families fairer, the tax legislation will be amended so that any change in conjugal situation will, as of January 1, 2007, be taken into consideration for the purposes of calculating an individual's family income, as of the month following the one during which the change occurs (or, if the change in conjugal situation occurs in 2006, as of January 1, 2007).

To do so, the definition of the expression "family income" will be changed so that an individual's family income, for a reference year relating to a given month following December 2006, means all the individual's income for the reference year and the income, for such year, of his cohabiting spouse at the beginning of the given month.[31]

In addition, any individual will be required to advise the Régie of changes in his conjugal situation prior to the end of the month following the one in which the change occurs. The Régie may also require that an individual provide it with the documents or information necessary to verify his conjugal situation. Such documents or information must be supplied to the Régie prior to the expiry of a period of 45 days following the date of the request, failing which the Régie may suspend payment of any amount of child assistance payment until such documents or information thus required are provided.

Where the Régie is advised of a change in conjugal situation that implies that a two-parent family has become a single-parent family, that a single-parent family has become a two-parent family or that a two-parent family is no longer formed by the same couple, it will carry out a new calculation of the child assistance payment, on the basis of the changed family income to reflect such change.

This new calculation will be retroactive to the first day of the month following the one during which the change occurred, subject to a maximum retroactive effect of eleven months regarding the payment of any additional amount as child assistance payment that may stem from this new calculation and taking into account, for the purposes of the recovery of any amount that, following this new calculation, is overpaid as child assistance payment, the three-year prescription period currently applicable.[32]

Moreover, the tax legislation stipulates that, to receive the RTCCA regarding a given month included in a taxation year, an individual and, if applicable, the person who is his cohabiting spouse at the end of the reference year relating to such month, must have filed a tax return[33] for such year.

A change will be made to this eligibility condition to reflect the fact that, as of taxation year 2007, an individual's family income must be determined on the basis of his true conjugal situation at the beginning of a given month.

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31 For greater clarity, the elections currently allowed by the tax legislation will no longer be necessary and, consequently, will be withdrawn.

32 The tax legislation stipulates that a debt of the Régie is prescribed after three years as of the date when an amount to be paid without entitlement to an individual or, in case of bad faith of the individual who received the amount without being entitled to it, as of the date when the Régie became aware of the fact that such amount was paid without entitlement.

33 In this respect, where an individual has resided in Québec on December 31 of the reference year and was a resident of Canada throughout the reference year, the required tax return is the return filed with the Minister of Revenue for the reference year, in accordance with the *Taxation Act*. Otherwise, the required tax return is a statement of income for the reference year filed with the Régie using a prescribed form.

Accordingly, this eligibility condition will be changed to stipulate that a person may be entitled to the RTCCA in respect of a given month included in any taxation year following taxation year 2006, provided such individual and, if applicable, the person who is his cohabiting spouse at the beginning of such month have filed a tax return for the reference year relating to such month.

❑ Updating of the eligibility criteria for the supplement for handicapped children in the case of a hearing impairment

A minor child may give rise to the supplement for handicapped children if he suffers, at the beginning of a given month, from an impairment or a development disorder that considerably restricts his or her everyday activities and that is expected to last at least one year.

Everyday activities are the activities in which a child participates, according to his age, with respect to personal care and social life. They include eating and getting dressed, moving about, communication, learning activities, and going to and moving about the places where the activities take place.

In this regard, the regulations stipulate that a child is presumed to be handicapped if his condition, during a period that is expected to last at least one year, corresponds or is comparable to some of the cases it describes.

Currently, a child with a hearing problem is presumed handicapped if his average threshold, in his best ear, is greater than 90 dB before correction, with equivalent results for air and bone conduction or if he is in one of the other situations described in the regulations.

Because of advances in hearing aid technology, measurement apparatus and clinical audiology practices, it is appropriate to replace the presumed cases of serious hearing handicap and the assessment methods currently stipulated so that they are better adapted to current technology and practices in this field.

The effect of these changes will be, among others, to lower the criterion applicable to major hearing impairment to 70 dB, thus making eligible children for whom other elements of proof would previously have been required to demonstrate the handicap. In addition, they will reflect the fact that children face new handicap situations when they enter school, by raising the transition age from 5 to 6 for criteria for which the severity of the deafness varies with age.

Moreover, all the criteria relating to obsolete tests will be changed or withdrawn. For example, criteria relating to corrected hearing will no longer be used since the new hearing aids no longer allow the measurements that were required to be taken.

More specifically, the regulations will be amended to stipulate that, in respect of a hearing impairment, a child will be presumed handicapped in the following cases:

— he has an average air and bone conduction threshold greater than 70 dB in his best hear, before using an equipment;

— he is under age six and the average air conduction threshold is greater than 40 dB in his best ear, before using an equipment;

— he falls at the same time into one of cases A and B listed below:

CASE A	CASE B
A. 1°- He is under age six and the average air conduction threshold is 25 dB or more in his best ear, before using an equipment.	B. 1°- Despite an appropriate equipment, his language retardation is comparable to the cases of the table applicable to language difficulties.
A. 2°- He is age six or over and the average air conduction threshold is 40 dB or more in his best ear, before using an equipment.	B. 2°- His hearing impairment requires specialized services outside the school more than twice a month. The specialized services are audiology monitoring hearing, medical or speech therapy and visits to an audioprosthetist.

Concerning the methods for assessing hearing impairment, the regulations will be amended to stipulate that:

— Hearing capacities will be assessed considering the average thresholds of pure sounds of 500, 1 000, 2 000 and 4 000 Hz.

— If the child's assessment is carried out other than by tone audiometry, the information needed to assess the reliability of the method used must be indicated in the expert's report.

— The assessment must reflect the child's usual capacity. The assessment must not be carried out in cases of temporary conduction deafness, in particular due to otitis media.

These amendments will apply as of April 1, 2006. However, a child presumed handicapped under the rules that currently apply will continue to be so until a decision is made regarding him on the basis of the new presumed cases of severe hearing impairment.

1.3 Changes to the eligibility conditions of the tax credit for tuition fees and examination fees

An individual can claim a non-refundable tax credit for tuition fees paid to enable him to pursue his studies. Eligible tuition fees are generally those paid to a post-secondary educational institution.

Examination fees paid to a professional order mentioned in Schedule I to the *Professional Code* can also give rise to the tax credit, provided the examination is required for the individual to become a member of the order.

However, to give rise to the tax credit, the total of the tuition fees and examination fees paid regarding a year must exceed $100.

The eligible amount of tuition and examination fees paid regarding a year is converted into a tax credit at the rate of 20%. Any unused portion of this tax credit can be applied against tax payable in a subsequent year.

To reflect the fact that passing an examination of a Canadian or American professional organization may be required to become a member of certain professional orders, changes will be made to the eligibility criteria. In addition, clarifications will be made concerning the fees eligible for the tax credit where an individual does not reside in Canada.

❑ Eligibility of examination fees paid to certain Canadian and American professional organizations

To exercise a profession in Québec or carry a professional title governed by the *Professional Code*, a person must generally hold a license and be a member in good standing of the professional order responsible for such profession.

It can happen that, in addition to the requirements regarding training, passing an examination given by the professional order is included in the terms and conditions for issuing a license to practice. Some professional orders even require candidates to pass an examination given by another Canadian or American professional organization as a condition for issuing the license.[34]

Under the existing tax legislation, where the examination fees are not paid to a recognized teaching institution, they must have been paid to one of the professional orders mentioned in Schedule I to the *Professional Code* to give rise to the tax credit for tuition fees and examination fees.

Accordingly, despite the fact that an individual may be required, to become a member of a professional order mentioned in Schedule I to the *Professional Code*, to pass the examination of a professional organization designated by the order, the fees paid for such an examination are generally ineligible for the tax credit for tuition fees and examination fees because, in most cases, the professional organizations provide no instruction.

The tax legislation will therefore be amended to stipulate that an individual may include, in calculating the fees eligible for the tax credit for tuition fees and examination fees, the examination fees paid to a Canadian or American professional organization provided the individual is required to pass such an examination as a condition for issuing a license to practice by a professional order mentioned in Schedule I to the *Professional Code*.

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34 For example, the components of the family medicine examination, which is required by the Bureau du Collège des médecins du Québec for persons who have completed their post-doctoral studies in family medicine, can be shared, in whole or in part, with those of examinations held respectively by the College of Family Physicians of Canada, for the purposes of issuing a family medicine certificate, and the Medical Council of Canada, for the purposes of issuing a license.

In addition, in the event that an individual must, to be entitled to sit the examination of a Canadian or American professional organization whose passing is required by a professional order mentioned in Schedule I to the *Professional Code* as a condition for issuing a license to practice, have passed another examination of the organization, hereunder referred to as a "preliminary examination", the fees paid for such preliminary examination will also be considered eligible fees for the purposes of the tax credit.

Moreover, although it is not a professional order mentioned in Schedule I to the *Professional Code*, the Canadian Institute of Actuaries plays a primary role in the actuarial field in Canada.[35] Currently, the Canadian Institute of Actuaries grants its title only to candidates who satisfy its requirements.[36]

Accordingly, to reflect the particular situation of actuaries, the announced amendment will be extended to examination fees paid to Canadian and American professional organizations provided such examinations are required to obtain a title awarded by the Canadian Institute of Actuaries.

These amendments will apply to examination fees paid regarding taxation year 2005 or a subsequent taxation year.

❑ Limit on the carryover of fees paid by a non-resident

Under the existing tax legislation, an individual may, for the purposes of calculating the tax credit for tuition fees and examination fees for a given taxation year, include the amount of eligible fees paid regarding such year or a prior year after 1996, provided such amount was not taken into consideration, for a prior taxation year:

— in determining an amount deducted from his tax otherwise payable in Québec for the tax credit for tuition fees and examination fees;

— if the individual was not liable for Québec tax for such prior year, in determining either an amount he deducted from federal tax otherwise payable for the tax credit for tuition fees, or an amount that another person[37] deducted from his federal tax otherwise payable further to a transfer of the tax credit for tuition fees.

However, as worded, the law does not explicitly exclude fees paid regarding a year prior to the given year during the totality of which an individual did not reside in Canada, despite the fact that such individual may have received financial assistance regarding such fees in his country of residence.

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35 The Institute, constituted under a federal law, promotes the advancement and progress of actuarial science in order to encourage the application of actuarial science to human activity, and establish, encourage and maintain a high level of skill and ethics in the actuarial profession.

36 In particular, the title Fellow of the Canadian Institute of Actuaries (FCIA).

37 Such other person may be the spouse, father, mother, grandfather or grandmother of the individual.

To ensure the integrity of the tax system, the legislation will be amended to specify that, for a given taxation year, only the amount of eligible tuition fees and examination fees that were paid regarding the given year or a year, after 1996 and prior to the given year, during which the individual resided in Canada may be included in the calculation of the tax credit for tuition fees and examination fees, provided such amount was not taken into consideration, for a prior year, in determining an amount deducted in either of the circumstances described above.

For greater clarity, this change will not prevent an individual who did not reside in Canada at any time during a taxation year from claiming, if he is liable for Québec tax for such year,[38] a tax credit regarding eligible tuition fees and examination fees paid regarding the said year. However, any portion of such fees not taken into consideration in determining the tax credit granted for the given year may not be carried over to a subsequent year, since such fees were paid regarding a year during all of which the individual did not reside in Canada.

This amendment will apply as of taxation year 2006.

1.4 Increase in the exemptions granted for determining premiums under the prescription drug insurance plan

The basic prescription drug insurance plan introduced by the Québec government ensures all Quebecers fair access to the medication required by their state of health. Coverage under this plan is provided by the Régie de l'assurance maladie du Québec (RAMQ), or by insurers transacting group insurance or administrators of private-sector employee benefit plans.

As a rule, all persons whose coverage is provided by RAMQ in a given year must, in filing their income tax return for that year, pay a premium to finance the Québec prescription drug insurance plan, of which they are beneficiaries. However, to take each person's ability to pay into account, deductions are granted in calculating this annual premium. The level of these deductions is set, notably, to exempt from paying the annual premium a person or a couple who receives the maximum amount of guaranteed income supplement from the federal government.

To adhere to the principle of taking each person's ability to pay into account in determining the amount of the premiums that must be paid to finance the Québec prescription drug insurance plan, adjustments must be made to the amounts of the deductions used to calculate the premiums payable for 2005.

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38 Every individual who was not resident in Canada at any time in a taxation year and who, in the taxation year or a previous taxation year, was employed in Québec, carried on a business in Québec or disposed of a taxable Québec property, shall pay a tax on the individual's income earned in Québec for such taxation year.

The following table shows the deductions that will be granted in calculating the premiums payable by persons whose coverage is provided by RAMQ in 2005.

DEDUCTIONS ACCORDING TO FAMILY SITUATION – QUÉBEC PRESCRIPTION DRUG INSURANCE PLAN (2005)
(in dollars)

Family situation	Deduction
1 adult, no children	12 490
1 adult, 1 child	20 250
1 adult, 2 children or more	23 055
2 adults, no children	20 250
2 adults, 1 child	23 055
2 adults, 2 children or more	25 640

1.5 Deferral of the due date of the special tax on excess capitalization of shareholding workers cooperatives

The Cooperative Investment Plan (CIP) was created on April 23, 1985 to foster the capitalization of cooperatives by allowing, under certain conditions, a tax benefit to investors who acquire securities issued by an eligible cooperative. As part of the March 30, 2004 Budget Speech, a major reform of this plan was announced to direct capitalization assistance to cooperatives and federations of cooperatives with a real need and with a substantial presence in Québec.

To ensure that this objective is achieved, more rigorous criteria were introduced to determine the eligibility of cooperatives and federations of cooperatives for the CIP. Furthermore, various measures were put in place to ensure the integrity of the plan.

Although they are not formed to actively carry on a business, shareholding workers cooperatives[39] are one of the types of cooperatives that may be eligible for the CIP. To ensure that the tax assistance for the capitalization of shareholding workers cooperatives is directed to the primary goal of this type of cooperative, i.e. the acquisition and holding of shares in a company that employs their members, it was announced, as part of Information Bulletin 2004-11 of December 22, 2004, that a measure to enhance the integrity of the CIP regarding this type of cooperative would be introduced.

39 Shareholding workers cooperatives are those consisting exclusively of natural persons with the goal of acquiring and holding shares in the company that employs them and whose purpose is to provide their members (including their auxiliary members) with work through the business carried on by such company. This type of cooperative thus allows its members to be, through its intervention, collectively shareholders of the company that employs them.

Briefly, this measure stipulates that a shareholding workers cooperative is liable to a special tax, when the total of the amounts paid regarding securities eligible for the CIP[40] outstanding at the end of a given year exceeds a limit set at 115% of the cost of the shares held in the company that employs the members of the cooperative, such limit being referred to as the "115% limit" hereafter. The special tax thus payable, whose amount is equal to 30% of such excess, may be recovered if the excess declines during a subsequent year.

When a shareholding workers cooperative is required to pay, for a given calendar year, a special tax, the amount of such tax must be paid no later than March 31 of the year following the given calendar year.

Following various representations made by the cooperative movement, the ministère du Développement économique, de l'Innovation et de l'Exportation formed a committee in April 2005 to study shareholding workers cooperatives. The committee consists of representatives of the major partners and players involved in the development of this type of cooperative.

The committee's work has brought to light a number of items that shareholding workers cooperatives must deal with and that can cause the 115% limit to appear restrictive. For instance, these cooperatives must meet their financial obligations relating to interest charges, operating charges and redemption of securities upon the retirement or resignation of a member, while their cash resources stem essentially from units acquired by members – it is rare that a shareholding workers cooperative can receive a dividend even though the shares held in the company that employs its members have increased in value.

Further study will therefore have to be carried out to ensure that the government's objective of maintaining the integrity of the CIP is consistent with the features of shareholding workers cooperatives in terms of capitalization. In this context, the due date of the special tax payable for calendar year 2005 will be deferred from March 31 to June 30, 2006.

40 Securities eligible for the CIP include both securities issued prior to the reform and those issued after the reform.

2. MEASURES CONCERNING BUSINESSES

2.1 Extension for an additional year of the refundable tax credit for on-the-job training periods

The refundable tax credit for on-the-job training periods encourages students and apprentices to upgrade their professional qualifications and supports the efforts of businesses that help develop their skills.

Briefly, a taxpayer can, under certain conditions, claim a refundable tax credit for an on-the-job training period when, in particular, a student completes an eligible training period in a business he carries on in Québec or that a partnership of which he is a member carries on in Québec (eligible employer). The rate of the tax credit for on-the-job internships is 30% where the eligible employer is a corporation and 15% in other cases.

This tax credit is due to end for eligible training periods beginning after December 31, 2005. However, considering the advantages arising from this tax credit for interns who participate in this measure and for the businesses that benefit from it, the measure will be extended for one year.

In this context, the tax legislation will be amended so that the refundable tax credit for on-the-job training periods applies to eligible training periods beginning no later than December 31, 2006.

Moreover, the ministère des Finances will assess this tax credit jointly with the ministère de l'Éducation, du Loisir et du Sport and Emploi-Québec and, as the case may be, appropriate adjustments will be made.

2.2 Clarification concerning eligible activities for the purposes of the refundable tax credit for processing activities in the resource regions

The refundable tax credit for processing activities in the resource regions was introduced to help diversify the industrial structure of these regions and improve the situation of manufacturing employment.

In general, primary processing activities and activities carried out in a sector other than the manufacturing sector, such as mining or forestry operations, agriculture and construction do not constitute covered activities for the purposes of the tax credit. Exceptionally, however, some non-manufacturing activities such as fresh-water aquaculture and non-conventional energy production from biomass or hydrogen can constitute the activities of a certified business.

Briefly, the refundable tax credit for processing activities in the resource regions is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in a resource region of Québec, until December 31, 2009.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate has been issued by Investissement Québec and whose activities are carried out, in particular, in the wood, metal and non-metallic mineral processing or energy sectors. For example, the manufacturing of finished or semi-finished products from metal and the manufacturing of products intended for energy production or utilization are covered activities for the purposes of the tax credit.

Since the tax legislation does not define the expression "products intended for energy production or utilization," it could be argued theoretically that the carrying out of the various components of a hydro-electric complex, including those that intrinsically constitute construction activities, is an activity covered by this tax credit, since these components contribute to the production of energy.

However, the use of the terms "intended for" implies a direct link between the manufactured product and energy production or utilization. In this context, products intended for energy production or utilization must be understood as items that directly produce energy or convert one form of energy into another, which is already the position of Investissement Québec. For example, a turbine whose function is to convert kinetic energy into mechanical energy and an alternator whose function is to convert mechanical energy into electrical energy constitute products intended for energy production or utilization.

As a corollary, the carrying out of a penstock or a turbine base cannot be considered as the manufacturing of products intended for energy production or utilization since these two items do not directly produce energy or convert one form of energy into another.

Moreover, by administrative practice, Investissement Québec considers that products intended for energy production or utilization also include the equipment and electrical components, for industrial use, that function as connections, switches, relays and controls. For instance, control panels, electrical relays and switch boxes can also be considered as products intended for energy production or utilization.

Accordingly, to avoid any ambiguity, there is reason to specify that the position and administrative practice adopted by Investissement Québec regarding the interpretation of the concept of products intended for energy production or utilization correspond to the fiscal policy.

This clarification will apply by declaration.

2.3 Clarification concerning the territorial reach of certain tax assistance measures applicable to the financial sector

The rules applicable to certain tax assistance measures, particularly the rules relating to international financial centres (IFC) and those designed to support the development of stock exchanges and securities clearing-house corporations in Montréal require that, among other conditions, activities eligible for any of these tax assistance measures be carried out in the territory of the Ville de Montréal.

Moreover, in accordance with the results of the votes held under the *Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities* on the municipal reorganization plan for the Island of Montréal, the boundaries of the Ville de Montréal will be changed as of January 1, 2006.

Since the effect of these changes will be essentially to reduce the territory of the existing Ville de Montréal, without an adjustment to the tax assistance measures mentioned above, their territorial reach would be reduced, which would be an unintended restriction.

To avoid such a restriction, the tax legislation will be amended so that the territory currently covered by these measures remains the same after the new municipal territorial limits on the Island of Montréal take effect on January 1, 2006.

More specifically, for the purposes of the IFC program and the tax measures to support the development of stock exchanges and securities clearing-house corporations in Montréal, the reference to the territory of the Ville de Montréal will be replaced with a reference to the urban agglomeration of Montréal, as this expression is understood in the *Act respecting the exercise of certain municipal powers in certain urban agglomerations*.[41]

2.4 Introduction of a deduction in the calculation of paid-up capital relating to certain vehicles in inventory

A corporation that has an establishment in Québec at any time in a taxation year is subject to the tax on capital, calculated on the basis of the paid-up capital shown in its financial statements for the year, prepared in accordance with generally accepted accounting principles.

In general, the paid-up capital of a corporation which is not a financial institution is obtained by adding most of the amounts shown in the "shareholders' equity" and "long-term liabilities" sections of the balance sheet. To avoid double taxation, paid-up capital is reduced regarding investments made in other corporations, and a deduction is allowed for certain items. Lastly, a tax rate of 0.6% is applied to such paid-up capital.

According to the existing legislative provisions, debts contracted as accounts payable that exist for six months or less at the end of a taxation year do not have to be added in the calculation of paid-up capital. However, in the case of debts contracted as loans, these must be added, regardless of the length of the loan, whether six months or less or more than six months.

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41 S.Q., 2004, c. 29, section 4: "The urban agglomeration of Montréal is made up of the territories of Ville de Montréal, Ville de Baie-d'Urfé, Ville de Beaconsfield, Ville de Côte-Saint-Luc, Ville de Dollard-des-Ormeaux, Ville de Dorval, Ville de Hampstead, Ville de Kirkland, Ville de L'Île-Dorval, Ville de Montréal-Est, Ville de Montréal-Ouest, Ville de Mont-Royal, Ville de Pointe-Claire, Ville de Sainte-Anne-de-Bellevue, Village de Senneville and Ville de Westmount."

In 2001, in the Autobus Thomas case,[42] the courts ruled on the nature of this company's debts and the decision gave rise to an increase in the burden of the tax on capital of certain corporations, automobile dealers in particular. Under the new interpretation resulting from this decision, corporations must now add, in calculating their paid-up capital, their debts relating to the financing of their inventory of new vehicles, on the basis that they consist of loans and not accounts payable.

Accordingly, to mitigate the effects of this decision for corporations, a specific amendment will be made to the tax legislation. More particularly, a corporation may deduct, in calculating its paid-up capital, an amount corresponding to 50% of the amount shown in its financial statements relating to new automobile equipment purchased for resale that it has in inventory.

However, this deduction will be granted only if the source of financing of such inventory has been included in the calculation of paid-up capital, and only up to 50% of the amount so included in this regard. For instance, a corporation may not claim this specific deduction in calculating its paid-up capital regarding new equipment purchased for resale if such automobile equipment is financed through an account payable that exists for six months or less.

For greater clarity, this new deduction a corporation may claim in calculating its paid-up capital will apply in addition to the other deductions a corporation may claim. In addition, this deduction will be granted before any reduction for investment a corporation may claim, and before the deduction of up to $1 million that certain corporations may claim.

This amendment will apply as of January 1, 2005. However, where a taxation year of a corporation includes January 1, 2005, the deduction must be reduced such that it is granted in proportion to the number of days of the taxation year that follow December 31, 2004 compared to the number of days of such taxation year.

2.5 Measures to counter tax evasion associated with sales zappers

Over the last few years, a tax evasion stratagem has developed in the retail sales sector involving the use of software to hide or 'zap' data relating to sales of goods and services so that they cannot be used to indicate the revenues arising from such sales or to calculate the applicable taxes on them.

The Act respecting the ministère du Revenu prohibits merchants from using such sales zappers and stipulates an infraction regarding both the merchant and the persons who help them commit an infraction. However, these measures have proven insufficient for Revenu Québec to fight effectively against those at the very source of this phenomenon, i.e. in particular the designers, makers and sellers of sales zappers.

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42 *Autobus Thomas Inc.* v. *Her Majesty the Queen* (A-606-98), Federal Court of Appeal. Judgement confirmed by the Supreme Court of Canada, (2001) 3 S.C.R. 5.

Accordingly, to better equip Revenu Québec to counter tax evasion associated with sales zappers, the Act respecting the ministère du Revenu will be amended to ban any activity relating to this type of software, such as its design, manufacture, sale, leasing, installation, maintenance, modification or updating.

A specific infraction will be introduced for violations of this ban and the following penalties will be applied:

— a fine of not less than $25 000 nor more than to $500 000 for a first offence;

— in the case of a repeat offence within five years, a fine of not less than $100 000 nor more than $1 000 000, or to both the fine and imprisonment not exceeding two years.

Lastly, the provisions of the Act respecting the ministère du Revenu relating to guarantees and audit powers will be amended to reflect this new ban.

All these amendments will become effective on the date the bill giving effect to them, which will be tabled by the Minister of Revenue in the coming months, is sanctioned.

3. FEDERAL LEGISLATION AND REGULATIONS

3.1 November 14, 2005 Economic and Fiscal Update

On November 14, 2005, the Minister of Finance of Canada presented, to the House of Commons Standing Committee on Finance, the Government of Canada's Economic and Fiscal Update for 2005.[43] Québec's tax legislation and regulations will be amended to incorporate some of the measures announced. However, these measures will be adopted only after the approval of any federal law or the adoption of any federal regulation arising from the 2005 Economic and Fiscal Update,[44] taking into account technical amendments that might be made prior to the approval of the law or the adoption of the regulation. Lastly, these measures will apply as of the same dates as for federal tax purposes.

❑ Measures retained

Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the measures relating to:

1. the increase in the refundable medical expense supplement from $750 to $1 000 (p. 224);[45]

2. the extension from 10 to 20 years of the carryover period for non-capital losses, farm losses and restricted farm losses (p. 226 and 227);

3. the acceleration of the capital cost allowance for certain types of forestry bioenergy equipment (p. 227).

❑ Measures not retained

Some measures have not been retained because Québec's tax system is satisfactory in this regard or does not contain corresponding provisions. This applies to the measures on:

— the increases to the basic personal amount, the amount for a spouse or common-law partner and the amount for an eligible dependant (p. 218);

— the change to rates and taxation thresholds (p. 219);

— the introduction of a Working Income Tax Benefit (p. 130);

— the increase to the Child Disability Benefit (p. 224);

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43 Department of Finance Canada, News Release 2005-077.

44 DEPARTMENT OF FINANCE CANADA, *Economic and Fiscal Update, Presentation Document, November 2005*.

45 The references between parentheses correspond to the page of the above-mentioned document giving a detailed description of the tax measure.

— the accelerated elimination of the federal capital tax (p. 225);

— the extension from 10 to 20 years of the carryover period for investment tax credits, losses applied under Part IV of the Income Tax Act and taxable Canadian life investment losses under Part XII.3 of the Act (p. 226 and 227).

3.2 Department of Finance Canada News Release of November 17, 2005

On November 17, 2005, the Minister of Finance of Canada issued, in a news release,[46] a Notice of Ways and Means Motion to amend provisions of the *Excise Tax Act* essentially concerning the application of the goods and services tax (GST) and harmonized sales tax to the financial services sector.

In accordance with the principle of harmonization of the Québec sales tax (QST) and GST systems, subject to Québec's specific features and taking the provincial context into account, Québec's tax system will be amended to incorporate, with adaptations based on its general principles, the federal measures relating to:

— debt collection services;

— foreign bank branches;

— closely related groups;

— imported supplies, except the new rule for financial institutions.

However, no change will be made to the QST system to apply, in an inter-provincial context, the measure relating to imported supplies, since the Québec tax system is satisfactory in this regard.

The harmonization measures retained will be adopted only after the approval of any law or the adoption of any regulation stemming from the federal news release, taking into account technical amendments that might be made prior to the approval of the law or the adoption of the regulation. They will apply on the same dates as for the purposes of the GST system, apart from the measures applicable since December 17, 1990 which, for the purposes of the QST system, will be effective as of July 1, 1992.

The federal news release also indicates that the draft amendments concerning the multi-employer pension plan rebate, tabled on October 3, 2003,[47] would not be enacted because the amendments it contains are no longer required. In view of the harmonization of the GST and the QST systems in this regard, these amendments will also not be incorporated into Québec's tax system.

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46 Department of Finance Canada, News Release 2005-079.

47 Department of Finance Canada, News Release 2003-046.

3.3 Department of Finance Canada News Release of November 23, 2005

On November 23, 2005, the Minister of Finance of Canada announced, in a news release,[48] changes to the tax treatment of dividends paid after December 31, 2005.

Briefly, the announced changes introduce the concept of an eligible dividend, which will, in particular, eliminate the "double taxation" of dividends at the federal level. In this regard, it is appropriate to mention that Québec's tax system applicable to dividends does not lead, for Québec taxpayers, to double taxation at the provincial level.

Moreover, the backgrounder accompanying the news release posits the hypothesis of provincial harmonization with the new federal rules. Accordingly, it is appropriate for the Québec government to make its position clear regarding the tax treatment of dividends paid after December 31, 2005.

The news release of the Minister of Finance of Canada sets out the main parameters of the new rules, namely the gross-up rate of eligible dividends and the applicable rate of the dividend tax credit. However, the technical details that will govern the concept of eligible dividend were not made public.

In this context, considering on the one hand that Québec's tax system that applies to dividends does not lead, for Québec taxpayers, to double taxation at the provincial level and, on the other hand, that the technical details giving effect to the changes announced on November 23, 2005 are still not known, Québec's tax legislation will not be amended regarding dividends paid after December 31, 2005.

However, once the federal technical details of the new tax system relating to dividends are released by the Minister of Finance of Canada, Québec's tax system will be reviewed in light of the new rules and any resulting changes will be announced at that time.

3.4 Department of Finance Canada News Release of December 6, 2005

On December 6, 2005, the Department of Finance Canada announced, in a news release,[49] changes to certain limits governing the deductibility of automobile expenses and to the rates applicable to the calculation of the value of the taxable benefits relating to the use of an automobile for 2006.

In this regard, in keeping with the principle of substantial harmonization of tax legislation regarding automobiles, the various limits and rates governing the deductibility of automobile expenses and the calculation of the value of the taxable benefits relating to the use of an automobile contained in Québec's tax legislation and regulations, will be the same as those applicable in the federal system. These limits and rates are described in the following table.

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48 Department of Finance Canada, News Release 2005-082.

49 Department of Finance Canada, News Release 2005-086.

	Limit / Rate
Amount deductible from allowances paid by an employer to an employee according to distance travelled with his automobile:	
– first 5 000 km	As of January 1, 2006, the limit will rise from 45 to 50 cents/km[1]
– additional kilometres	As of January 1, 2006, the limit will rise from 39 to 44 cents/km[1]
Value of the benefit relating to operating expenses of an automobile that an employee uses for personal purposes, where the automobile is supplied by his employer:	
– where the job consists mainly in selling or renting automobiles during the taxation year	As of January 1, 2006, the rate will rise from 17 to 19 cents/km
– in other cases	As of January 1, 2006, the rate will rise from 20 to 22 cents/km
Maximum capital cost of passenger vehicles for the purposes of the deduction for depreciation	For vehicles acquired after 2005, the maximum capital cost will remain at $30 000[2]
Interest expenses eligible as a deduction	For vehicles acquired after 2005, the limit will remain at $300/month
Leasing charges eligible as a deduction	For leases concluded after 2005, the limit will remain at $800/month[2]

1. The limit will continue to be 4 ¢ higher per kilometre in the Yukon Territory, the Northwest Territories and in Nunavut, to reflect the higher cost of maintaining and operating a vehicle in those territories. Accordingly, it will rise to 54 ¢ for the first 5 000 kilometres and to 48 ¢ for additional kilometres.
2. Before applicable sales taxes.